

HOUSE BILL 2631
By Gresham

AN ACT to amend Tennessee Code Annotated, Title 55 and Title 68, Chapter 212, relative to transportation of hazardous waste and materials.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 212, is amended by adding the following as a new, appropriately designated section:

68-212-____.

(a) All entities that transport hazardous waste, as defined in § 68-212-104(8), or hazardous materials, as defined in § 55-50-102(27), shall initiate a criminal background check on any person who is employed by the entity in a position which involves transporting such hazardous waste or materials, prior to or within seven (7) days of employment.

(b) Any person who applies for employment in a position which involves transporting hazardous waste or materials shall consent to:

(1) Provide past work and personal references to be checked by the employer; and

(2) Agree to the release and use of any and all information and investigative records necessary for the purpose of verifying whether the individual has been convicted of a criminal offense in this state, to either the employer or its agent, or to any agency that contracts with this state, or to any law enforcement agency, or to any other legally authorized entity; or

(3) Supply a fingerprint sample and submit to a state criminal history records check to be conducted by the Tennessee bureau of investigation, or a

state and federal criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation; or

(4) Release any information required for a criminal background investigation by a professional background screening organization or criminal background check service or registry.

(c) A entity that transports hazardous waste or materials shall not disclose criminal background check information obtained under subsection (b) to a person who is not involved in evaluating a person's employment, except as required or permitted by state or federal law.

(d) Any costs incurred by the Tennessee bureau of investigation, professional background screening organization, law enforcement agency, or other legally authorized entity, in conducting investigations of such applicants may be paid by the entity transporting hazardous waste or materials, or any agency that contracts with the state of Tennessee requesting such investigation and information, or the individual who seeks employment or is employed. Payments of such costs to the Tennessee bureau of investigation are to be made in accordance with the provisions of §§ 38-6-103 and 38-6-109.

(e) The provisions of this section shall also apply to any company, organization, or agency that provides or arranges for the supply of transporters to any entity that transports hazardous waste or materials in this state. Such company, organization, or agency shall be responsible for initiating a criminal background check on any person hired by that entity for the purposes of transporting hazardous waste or materials, and shall be required to report the results of the criminal background check to any entity in which the organization arranges for that individual to work, upon such a request by the entity.

(f) An entity that transports hazardous waste or materials that declines to employ or terminates a person based upon criminal background information provided to the entity under this section shall be immune from suit by or on behalf of that person for the termination of or the refusal to employ that person.

(g) This section is intended to supplement 49 U.S.C. § 5103a.

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.